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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,193	10/31/2003	Davis-Dang Hoang Nhan	KCC 4984 (K-C 18,956)	3474
321	7590	06/15/2006	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102				HAND, MELANIE JO
		ART UNIT		PAPER NUMBER
		3761		

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/699,193	NHAN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Melanie J. Hand	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 15, 16 and 22-29 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 and 17-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                       |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>see Other</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)   |
|  | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: IDS:2/4/04,3/18/04,4/5/04,8/16/04,8/23/04,10/20/04.

## DETAILED ACTION

### *Election/Restrictions*

Claims 15, 16, and 22-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 23, 2006.

### *Information Disclosure Statements*

The information disclosure statements (IDS) submitted on February 4, 2004, March 18, 2004, April 5, 2004, August 16, 2004, August 23, 2004 and October 20, 2004 were filed after the mailing date of the Application on October 31, 2003. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 and 17-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Jiang et al (U.S. Patent Application Publication No. 2004/0127614).

With respect to **Claim 1:** Jiang teaches an absorbent article 100 comprising a first nonwoven stretch bonded laminate backing 125 (stretchable substrate) and absorbent layer 135 attached thereto using a first adhesive composition. Absorbent layer 135 is comprised of at least one superabsorbent batt comprising superabsorbent particles applied to and held by the adhesive composition.

With respect to **Claims 2,20:** Backing 125 comprised of stretch bonded laminate web (first stretchable substrate) is attached to chassis 130 comprised of stretch bonded laminate liner 140 (second stretchable substrate) which is positioned so as to be in superposed relationship to backing 125 wherein absorbent layer 135 is disposed therebetween.

With respect to **Claim 3:** Jiang teaches that there are two types of adhesive composition layers, a construction adhesive layer (first layer of adhesive composition adhering backing 125 to chassis 130) and at least one elastic attachment adhesive layer (second adhesive composition layer adhering backing 125 and absorbent 135 (layer of particulate superabsorbent material) to one another.

With respect to **Claim 4:** Elastic attachment layers (second adhesive composition layer) adhere liner 140 (second stretchable substrate) to absorbent layer 135.

With respect to **Claim 5:** Jiang teaches that the adhesive composition is a hot melt adhesive.

With respect to **Claims 6-10:** Jiang teaches that the adhesive composition has a viscosity less than 8,000 mPa-s (8,000 cP) at 190 degrees Celsius, therefore the viscosity will also be less than 10,000 cP at 204 (claim 6), 149 (claim 7) and 121 degrees Celsius (claim 8). Thus the adhesive composition will also have a viscosity at 149 degrees Celsius that falls within the range set forth in claim 9. With respect to claim 10, Jiang teaches that the viscosity could be less than 6,000 mPa-s (cP) at 190 degrees Celsius, which would also be less than 6,000 cP at 149 degrees Celsius and therefore falls within the range set forth in claim 10

With respect to **Claims 11-14:** Jiang teaches that the adhesive composition has a storage modulus of 0.001-1 Mpa ( $10^5 - 10^7$  dynes/cm<sup>2</sup>) at 25 degrees Celsius.

With respect to **Claim 17:** Jiang teaches that absorbent layer 135 also contains cellulose (hydrophilic) fibers.

With respect to **Claim 19:** Since Jiang teaches that liner 140 and backing 125 are comprised of stretch-bonded laminates, said liner and said backsheet are necessarily elastic.

With respect to **Claim 21:** Please see the rejections of claims 2-4 as the rejections collectively address all of the limitations of claim 21.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

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matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jiang et al ('614) in view of Flohr et al (WO 98/22279).

With respect to **Claim 18**: Jiang does not teach that absorbent layer 135 has a nonuniform basis weight. Flohr teaches an absorbent core comprised of superabsorbent particles and cellulose pulp and teaches that the core is made of several regions differing in their fluid handling properties and functionality, therefore also differing in basis weight, yielding a non-uniform basis weight profile across the article. It would be obvious to one of ordinary skill in the art to modify the absorbent layer of Jiang so as to have regions of differing fluid handling property and function, and thus non-uniform basis weight, to maximize the efficiency of the core.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

